INFORMATION BULLETIN

2007-5

June 26, 2007

Changes to the Tax Holiday for Manufacturing SMEs in Remote Resource Regions and Other Fiscal Measures

This information bulletin provides a detailed description of the application details of the restoration of the tax holiday for manufacturing SMEs in remote resource regions. Restoration of this fiscal measure is accompanied by control measures, to be administered by Investissement Québec, to prevent the tax holiday being granted where businesses are shifted to remote resource regions.

In addition, this information bulletin improves the tax credit for Québec film and television production applicable to French-language youth programs, provides for the eligibility of certain hybrid vehicles for input tax rebates for large businesses and specifies the tax treatment of certain benefits from a public compensation plan outside Québec and the Universal Child Care Benefit in certain cases.

Lastly, it describes the rate and allocation formula of the income tax of flow-through entities, including income trusts.

For information regarding these matters and other more technical matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at 418 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances website at : www.finances.gouv.qc.ca

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Finances Québec

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1. MEASURES CONCERNING INDIVIDUALS

1.1 Eligibility of the refundable tax credit to support education savings where the trust resides in a province other than Québec

To encourage parents to save in order to fund the post-secondary studies of their children, it was announced, in the February 20, 2007 Budget Speech, and reaffirmed, in the May 24, 2007 Budget Speech, that a refundable tax credit to support education savings would be granted regarding contributions made, after February 20, 2007, in a registered education savings plan (RESP).

In general, this tax credit – whose cumulative amount can reach $3 600 per child – provides families with financial assistance that corresponds, for a given year, to 10% of the first $2 500 paid in the year as a contribution to an RESP for a child under age 18.

However, the financial assistance provided by the tax credit is increased for children of low and middle-income families regarding the first $500 of annual contributions. Accordingly, for children of households with a family income of no more than $37 178 (in 2007), the financial assistance provided by the tax credit is doubled for the first $500 paid annually into an RESP, rising from 10% to 20% of these first dollars, whereas it is raised to 15% of these dollars for children of households with a family income greater than $37 178 but no more than $74 357 (in 2007).[1]

Under the existing rules, the refundable tax credit to support education savings is paid, for a given taxation year, to the trust governed by the education savings plan in which the contributions were made for a child residing in Québec, provided, among other conditions, that the trust resides in Québec at the end of the given year and that, at the time the tax credit is claimed, an agreement relating to Québec education savings assistance has been entered into by the trustee of the plan, acting in that quality, and the Minister of Revenue.[2]

It has become apparent that many Québec children currently benefit from education savings plans governing trusts that reside in a Canadian province other than Québec.

Accordingly, to facilitate access to the refundable tax credit to support education savings, a presumption of residence in Québec will be established, as of taxation year 2007, in favour of certain trusts governed by an education savings plan.

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1 The family income thresholds correspond to those applicable for the purposes of calculating the Canada education savings grant and are indexed annually.

2 Essentially, this agreement ensures that the amounts paid in RESPs on account of the tax credit are monitored.

More specifically, a trust governed by an education savings plan will, for the purposes of the refundable tax credit to support education savings, be deemed to reside in Québec at the end of a given taxation year if, at the end of the year, it does not otherwise reside in Québec, it is resident in Canada and has as trustee a person with an establishment in Québec and if, at the time the tax credit is claimed for the given year, the agreement relating to Québec education savings assistance applicable regarding the plan at that time, entered into by the trustee acting in that quality and the Minister of Revenue contains the following clauses:

— a clause under which the trustee acting in that quality undertakes to pay to the Minister of Revenue, no later than the 90th day of the year following the year for which it is payable, any amount due by the trust on account of a special tax relating to the tax credit;

— a clause stipulating that the agreement is subject in every regard to the laws in force in Québec;

— a clause under which the trustee acting in that quality submits voluntarily to the jurisdiction of the courts of Québec on any question bearing on the measure relating to the tax credit, including its components dealing with the agreement and the special taxes;

— a clause stipulating that any judgment rendered against the trustee acting in that quality concerning the measure relating to the tax credit, including its components dealing with the agreement and the special taxes, is executable against the latter at an establishment located in Québec.

1.2 Benefits from a public compensation plan outside Québec

To reduce the unfairness related to the reception of certain benefits designed to replace an income or financial support, the recipients of such benefits must, as of taxation year 2004, adjust their tax payable to allow for the fact that basic tax credits and basic compulsory employee contributions are taken into account both in the method used to determine these benefits and in the calculation of the tax payable in respect of their other income.

In general, this tax adjustment consists, for taxation year 2004, of an inclusion in the calculation of tax otherwise payable by recipients of such benefits resulting in a reduction of the amount of their personal tax credits and, as of taxation year 2005, a reduction of the basic amount that would otherwise be allowed for the year for the purposes of calculating the basic tax credit.

The benefits that give rise to such a tax adjustment are essentially income replacement indemnities[3] and compensation for the loss of financial support[4] determined under a public compensation plan[5] and established on the basis of a net income, following an accident, employment injury or death, such benefits referred to hereunder as "covered benefits".

For taxation year 2004, the amount of the tax adjustment is equal to the lesser of $1 840 and 20% of all the amounts each representing the adjustment calculated regarding a covered benefit that is attributable to the year.

As of the 2005 taxation year, the amount of the tax adjustment for a given year is equal to all the amounts each representing the adjustment calculated regarding a covered benefit that is attributable to the year, up to the amount corresponding to the total of the amount of recognized essential needs and the minimum amount used to determine the complementary amount for the purposes of calculating the basic tax credit for the year.[6]

The adjustment relative to a covered benefit is calculated using various formulas stipulated by the tax legislation. These formulas differ depending on whether the covered benefit is determined by the Commission de la santé et de la sécurité du travail (CSST), the Société de l'assurance automobile du Québec (SAAQ) or another entity charged with administering a public compensation plan, such as the Workplace Safety and Insurance Board of Ontario or the Workplace Health, Safety and Compensation Commission of New Brunswick.

Where a covered benefit is determined by the CSST or the SAAQ, these organizations are charged with applying the appropriate formulas to calculate, for the recipient of the benefit, the adjustment relating to this benefit.

However, where a covered benefit is determined by an entity other than the CSST and the SAAQ, the beneficiary of the benefit must himself calculate the adjustment relating to it.

While the formulas stipulated in the latter case are simple to apply, they do not have the flexibility needed to allow for certain features of public compensation plans whose administration is entrusted to an entity other than the CSST and the SAAQ. For example, they cannot allow for the fact that a benefit paid under such a plan has been reduced because of holding a job.

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3 I.e., briefly, a benefit designed to compensate the total or partial incapacity of a person to carry out the duties pertaining to an office or employment or to carry on a business.

4 I.e., briefly, a benefit payable as an annuity granted, because of the death of a victim of an accident, employment injury or bodily injury, to the spouse of the victim or to a person who was dependent on him.

5 I.e. a plan established under a law of Québec or of another jurisdiction that stipulates the payment of benefits following an accident, employment injury, bodily injury or death or to prevent bodily injury, other than the Act respecting the Québec Pension Plan, the Canada Pension Plan and any statute establishing a plan equivalent to the Québec Pension Plan.

6 For greater clarity, as of taxation year 2008, the amount of the tax adjustment for a given year may not exceed the new single amount used to calculate the basic tax credit announced in the 2007-2008 Budget Speech.

Accordingly, so that these formulas better reflect these features and, in so doing, are more favourable to the beneficiaries of covered benefits determined by an entity other than the CSST and the SAAQ, they will be replaced retroactively to taxation year 2004.

❑ New formulas for calculating the adjustment

The adjustment regarding a covered benefit determined by an entity other than the CSST and the SAAQ attributable to a given taxation year will be equal to the total of the amounts each of which corresponds, for each day included in the year for which a covered benefit is determined,[7] to the lesser of the amounts calculated using the following formulas:[8]

— Formula based on the income used to determine the benefit

$$\left[\left[\left[\text{Income replacement rate} \times \text{Conversion rate for the year} \times \frac{\text{Gross annual income used to determine the benefit}}{\text{Number of days of the year}}\right] - \textit{Employment reduction for the year}\right] \times \text{Excess of 1 over the benefit reduction rate}\right] - \frac{\text{Reduction of the benefit otherwise determined}}{\text{Number of days of the year}}$$

Employment reduction for the year

$$\left[\textit{Conversion rate for the year} \times \textit{Reduction rate attributable to an income} \times \frac{\textit{Gross annual income from a suitable or held job}}{\textit{Number of days of the year}}\right]$$

7 For greater clarity, a benefit will be considered as determined for each day – whether a business day or not – included in the period for which it is paid.

8 Where the amount calculated using either of the formulas is less than zero, such amount is deemed to be equal to zero.

— Formula relating to the basic amount

$$\left[\left[\left[\text{Income replacement rate} \times \frac{\text{Basic amount for the year}}{\text{Number of days of the year}}\right] - \textit{Employment reduction for the year}\right] \times \text{Excess of 1 over the benefit reduction rate}\right] - \frac{\text{Reduction of the benefit otherwise determined}}{\text{Number of days of the year}}$$

Employment reduction for the year: the lesser of:

$$\left[\textit{Conversion rate for the year} \times \textit{Reduction rate attributable to an income} \times \frac{\textit{Gross annual income from a suitable or held job}}{\textit{Number of days of the year}}\right] \textit{AND} \left[\textit{Reduction rate attributable to an income} \times \frac{\textit{Basic amount for the year}}{\textit{Number of days of the year}}\right]$$

For the purposes of these formulas, the expression:

"Basic amount for the year" means, for a given day included in the given year and for which a covered benefit attributable to the year is determined:

— where the given year is taxation year 2004, an amount of $9 200, i.e. the total of the amount of recognized essential needs for the purposes of calculating the basic tax credit and the flat amount under the simplified tax system for such year;

— where the given year is after taxation year 2004 and before taxation year 2008, the total of the amount of recognized essential needs and the minimum amount used to determine the complementary amount for the purposes of calculating the basic tax credit for the year, i.e. an amount of $9 330 for 2005, $9 555 for 2006 and $9 745 for 2007;

— where the given year is after taxation year 2007, the single amount used to calculate the basic tax credit for the year, i.e. an amount of $10 215 for 2008 that will be automatically indexed annually as of January 1, 2009.

"Benefit reduction rate" means, for a given day that is included in the given year and for which a covered benefit attributable to the year is determined, the percentage applied to reduce, for the day, the amount of the benefit otherwise determined.[9]

"Conversion rate for the year" means the rate obtained by dividing the rate of the first taxable income bracket of the tax table applicable for the given year by the rate applicable, for such year, to the conversion of personal tax credits.[10]

"Gross annual income from a suitable or held job" means, for a given day that is included in the given year and for which a covered benefit attributable to the year is determined, the gross annual income relating to a suitable job or a job held – including any other amount replacing work income[11] – that is taken into consideration in the determination of the covered benefit for the day. [12] However, in the case where the covered benefit attributable to the year is subject to an annual adjustment, this expression, when used to determine the gross income of a suitable job, means, for a given day for which the benefit is determined, the amount that the gross annual income relating to a suitable job that is taken into consideration in the determination of the benefit would have been for such day had it been adjusted according to the same rules as the covered benefit as of the year following the one for which it was established for the first time.

"Gross annual income used to determine the benefit" means, for a given day that is included in the given year and for which a covered benefit attributable to the year is determined, either the gross annual income used as the basis for determining, for such day, the covered benefit, or, if an annual adjustment is applied to the covered benefit, the amount that would represent the gross annual income used as the basis for determining the benefit for such day had it been adjusted according to the same rules as the covered benefit.

"Income replacement rate" means, for a given day that is included in the given year and for which a covered benefit attributable to the year is determined, the percentage that, for the purposes of determining the benefit for the day, is applied to the income insured by the public compensation plan.[13]

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9 A benefit reduction rate shall be considered to have been applied only if, once the benefit is determined according to the basic rules of the public compensation plan, the benefit is reduced according to a percentage. For example, if a public compensation plan stipulates that the surviving spouse of an accident victim can receive 60% of the benefit the accident victim was entitled to, a reduction rate of 40% will be considered to have been applied to the benefit otherwise determined.

10 The conversion rate has been 80% since taxation year 2004.

11 Such as a Canada Pension Plan disability benefit.

12 For greater clarity, the annual gross income of a suitable job or a held job does not include any amount that reduces the benefit otherwise determined.

13 For example, under the Ontario workers' compensation plan, the income replacement rate is currently 85% for workers and 40% for childless surviving spouses.

"Reduction of the benefit otherwise determined" means, for a given day that is included in the given year and for which a covered benefit attributable to the year is determined, the product of the multiplication of the conversion rate for the year by the annual amount used to reduce the benefit otherwise determined for the day.

"Reduction rate attributable to an income" means, for a given day that is included in the given year and for which a covered benefit attributable to the year is determined, a rate of 100%, unless only part of the income, other than the recognized income on the date of the event giving rise to the covered benefit, is taken into consideration in determining the benefit for the day, in which case it means the percentage applied by the public compensation plan to such income.[14]

1.3 Clarifications concerning the taxation of the Universal Child Care Benefit

As a general rule, an individual must include, in calculating his taxable income for a given taxation year, any amount he receives during the year on account of the Universal Child Care Benefit (UCCB). However, where the income for the year of the individual who receives the UCCB is greater than the income of his spouse at the end of December 31 of the year, the amounts received on account of this benefit become taxable in the hands of the individual's spouse.

Amendments will be made to the tax legislation to clarify the tax treatment applicable where one of the spouses declares bankruptcy and to allow the possibility of averaging the taxation of a retroactive payment received on account of the UCCB.

❑ Taxation of the UCCB in the event of bankruptcy of one of the spouses

Where an individual declares bankruptcy during a calendar year, the tax legislation stipulates that the taxation year of the bankrupt is deemed to begin on the date of the bankruptcy (post-bankruptcy) and that the current taxation year is deemed to end on the eve of that date (pre-bankruptcy). Accordingly, such individual has two taxation years ending in the same calendar year.

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14 For greater clarity, the reduction rate attributable to an income may correspond to the income replacement rate stipulated by the public compensation plan. That will be the case, in particular, if the public compensation plan stipulates that the benefit is determined by applying the income replacement rate to the excess of the worker's net income prior to the occurrence of the event giving rise to entitlement to the benefit over the net income relating to a suitable job or a held job after the occurrence of the event (such a method of determination is stipulated, among others, by the Ontario *Workplace Safety and Insurance Act, 1997* and the New Brunswick *Workers' Compensation Act*.

Consequently, where, during a given calendar year, an amount is paid on account of the UCCB to an individual who has a spouse at the end of December 31 of the year and such individual or his spouse declared bankruptcy during the year, it may be difficult to compare the individual's income with that of his spouse to determine which of them will be taxed on the amounts received on account of the UCCB.

Accordingly, to dispel any ambiguity in this regard, the tax legislation will be amended to specify that, as of taxation year 2006, the comparison between the incomes of the spouses one of whom declared bankruptcy during a given calendar year must, to determine which of the spouses will be taxed on the amounts received on account of the UCCB during such year, be made on the basis of the income of the spouses for the calendar year.

For greater clarity, once the income of the spouses is compared on the basis of the calendar year, the individual with lower income[15] must declare the amounts received on account of the UCCB. In the event that such individual declares bankruptcy during the year, he must include, in the calculation of his taxable income for his pre-bankruptcy taxation year, the amounts received on account of the UCCB during the period from January 1 to the eve of the date of the bankruptcy and, in the calculation of his taxable income for the post-bankruptcy taxation year, the amounts received on account of the UCCB during the period from the day of the bankruptcy to December 31.

❑ Averaging of taxation of a retroactive payment

An individual who receives, during a given taxation year, eligible retroactive payments[16] that relate to one or more prior years for a total of at least $300 may use a special mechanism to calculate the tax payable on such payments. This mechanism, hereunder called an "averaging mechanism", is designed to avoid having an individual pay, for the given taxation year, more tax than what he would have paid had such payments been received and taxed during each of the years to which they relate.

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15 Or, if the two spouses have equal incomes, the individual who received the amounts on account of the UCCB.

16 Essentially, an income from an office or employment received pursuant to a judgment, arbitration ruling or contract by which the parties settle a lawsuit, a benefit under the Québec Pension Plan, the Canada Pension Plan, the Québec parental insurance plan or the federal employment insurance legislation, a deductible support allowance and any other amount, other than an income from an office or employment, whose taxation in the year of receipt would result, in the view of the Minister of Revenue, in an undue additional tax burden.

Briefly, the averaging mechanism stipulates that an individual must make, in the calculation of his income tax otherwise payable for the year during which he received eligible retroactive payments, an adjustment corresponding to the additional tax that would have been payable for each of the prior years to which these payments relate, if these payments had been received during such year. In addition, in the interests of fairness, the averaging mechanism stipulates the addition, in the calculation of the tax otherwise payable for the taxation year in which the eligible retroactive payments were received, of an amount on account of recapture of certain tax credits that would not have been transferred to the spouse for the prior year had the averaged payments been taxed in such year, as well as an amount in lieu of interest calculated on the total of the additional tax that would then have been payable for the prior year and the amount of recapture of tax credits for such prior year.

The tax legislation will be amended to make a retroactive payment on account of the UCCB eligible for this averaging mechanism, as of taxation year 2007. For greater clarity, where, for a given taxation year, an individual would otherwise be required to declare a retroactive payment on account of the UCCB, such individual may elect to average the taxation of such payment to each of the eligible prior taxation years[17] to which it relates, provided all the retroactive payments covered by the averaging mechanism for the year amount to at least $300. An individual who makes such an election will not be required to include, in the calculation of his taxable income for the given year, the payment on account of the UCCB that is submitted to the averaging mechanism.

Moreover, the current tax legislation stipulates that an individual may deduct, in the calculation of his taxable income for a given taxation year, an amount on account of the UCCB that was repaid during the year by him or another person, provided such amount was included in the calculation of his taxable income for the year or for a prior taxation year.

The tax legislation will be amended to stipulate that, as of taxation year 2007, an individual may also deduct, in the calculation of his taxable income for a given taxation year, the amount paid in the year as repayment of an amount received on account of the UCCB, where the amount thus repaid is covered by the averaging mechanism for the purposes of calculating the tax otherwise payable by the individual for a prior taxation year.

17 I.e. a taxation year throughout which the individual resided in Canada, other than a taxation year ending in a calendar year during which the individual declared bankruptcy.

1.4 Rounding of the indexing factor of the main parameters of the personal income tax system

The tax legislation stipulates that the main parameters of the personal income tax system are to be indexed automatically each year.[18]

Since taxation year 2005, the factor used to index these parameters corresponds to the percentage change in the overall average Québec consumer price index without alcoholic beverages and tobacco products for the 12-month period ending September 30 of the taxation year preceding the one for which a parameter must be indexed, compared to the one established for the 12-month period ending September 30 of the taxation year prior to such preceding year.

The indexing factor applicable for a given taxation year can accordingly have a large number of decimals. For example, for taxation year 2007, the indexing factor is equal to 2.02651645256577%.

Accordingly, to simplify the expression of the indexing factor, the tax legislation will be amended to stipulate that, where the percentage change of the indices used to determine the indexing factor applicable to a given taxation year after taxation year 2007 has more than two decimals, only the first two decimals will be retained. However, where the third decimal is equal to or greater than five, the second decimal must be rounded up to the next highest number.

1.5 Gift of immovable property located in Canada by a non-resident

Generally speaking, any person who gives property is deemed to have disposed of it at its fair market value, such that the person may realize a capital gain if the property is a capital property that has appreciated in value.

Persons who do not reside in Canada are subject to federal income tax on the taxable capital gain they realize on the disposition of an immovable property located in Canada. They are also subject to Québec income tax on such gain in every case where, in particular, the immovable property is located in Québec.

However, the federal and Québec tax legislation allow a person who is not a resident of Canada to reduce or cancel the capital gain arising from the disposition of an immovable property located in Canada if the property is given to a prescribed donee.

18 Such automatic indexing applies, among others, to the three taxable income brackets of the tax table, to the various family income brackets defined in the rate table used to calculate the refundable tax credit for child care expenses, to the basic amounts used to calculate most refundable and non-refundable tax credits and to the reduction thresholds of the various refundable tax credits.

Briefly, where a person who is not a resident of Canada makes a gift of an immovable property located in Canada to a prescribed donee who undertakes that the property be held for use in the public interest, and where the fair market value of the property given exceeds its adjusted cost base, such person may designate, in his tax return it must file for the year during which the gift is made, an amount – which must not be greater than the fair market value otherwise determined of the property given, nor less than its adjusted cost base for the person – that will be deemed to be the proceeds of the disposition of the immovable property.

Until recently, only the charitable organization "The Nature Conservancy" established in the United States was a prescribed donee for the purposes of this measure, for both the federal tax system and the Québec tax system.

On May 2, 2007, the federal tax regulations were amended to recognize a second foreign charitable organization, namely "Friends of the Nature Conservancy of Canada, Inc.", as a prescribed donee for the purposes of this measure.[19]

Since the Québec tax system includes provisions that are essentially identical to those of the federal tax system regarding the gift of an immovable property located in Canada by a person who is not a resident of Canada, Québec's regulations will also be amended to recognize the charitable organization "Friends of the Nature Conservancy of Canada, Inc.", as a prescribed donee for this purpose. This amendment will apply on the same date as that stipulated under the federal tax system.

19 *Regulations Amending the Income Tax Regulations (Charitable Donations)*, SOR/2007-74, (2007) 141 *Canada Gazette*, Part II, 437 (n° 9, 2/5/2007).

2. MEASURES CONCERNING BUSINESSES

2.1 Tax credit for Québec film and television production

The refundable tax credit for Québec film and television production applies to the labour expenditures incurred by a corporation that produces a Québec film and generally corresponds to 29.1667% of the eligible labour expenditures incurred to produce the film. However, the labour expenditures giving rise to this tax credit may not exceed 50% of the production expenses of the film, so that the tax assistance generally may not exceed 14.58335% of such expenses.

Under the application of this tax credit, an enhanced tax credit of 39.375% is granted regarding labour expenditures relating to the production of certain French-language feature, medium and short films and certain documentaries. The eligible labour expenditures incurred in the course of the production of a giant-screen film also enjoy an enhanced tax credit at a rate of 39.375%.

However, the labour expenditures giving rise to this enhancement may not exceed 50% of the production expenses of the film, so that the tax assistance in this regard can reach 19.6875% of production expenses.

Moreover, this tax credit cannot at any time exceed $2 187 500 per film or per series.

2.1.1 Rate of the tax credit raised for French-language youth programs

To be recognized as a Québec film, the *Regulation respecting the recognition of a film as a Québec film* (Regulation) stipulates that a production must satisfy criteria concerning, among other things, the type of production, the persons who held certain specified creative positions and the percentage of production expenses incurred in Québec.

Currently, only a French-language feature, medium or short film of fiction or a unique documentary, or a giant-screen film, give rise to a higher rate of tax credit.

To further support French-language youth production and thus enable young Quebecers to have access to attractive and high-quality content, the higher rate of the tax credit, i.e. 39.375%, will henceforward also apply to French-language programs intended for young people.

More specifically, the Regulation will be amended to stipulate that a French-language unique program or series of programs intended for young people, that otherwise satisfies the form and content criteria stipulated by the Regulation, will be an eligible production for the purposes of the higher rate of the tax credit for Québec film and television production for French-language productions.

For greater clarity, this amendment will not result in changing the certification criteria otherwise applicable to a production to give rise to the enhancement for French. Accordingly, a program intended for young people will have to, among other things, satisfy the point scale covering the creative personnel (i.e. a minimum of five points out of a maximum of seven attributed on the basis of residence in Québec or not of certain key persons participating in the production) and been scripted in French to give rise to the higher rate of the tax credit.

This change will apply to a film or television production or a series regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such production, is filed with the Société de développement des entreprises culturelles (SODEC) after the date of publication of this information bulletin. However, this change will not apply to a film or television production or a series for which the filming work[20] was complete on the day of publication of this information bulletin.

2.1.2 Clarification of the treatment of a financial contribution from a public broadcaster

Generally speaking, the amount of any government and non-government assistance, other than an excluded amount, that a corporation receives or is entitled to receive, must reduce the amount of labour expenditures or production expenses, as the case may be, as part of the calculation of the tax credit for the cultural field that the corporation is entitled to.

Since March 11, 2003, only the amounts paid by public organizations in the cultural field are non-reducing financial contributions in the calculation of the tax credit for Québec film and television production. In the February 20, 2007 Budget Speech, it was specified that the same would apply to the broadcast rights paid by a public broadcaster.[21]

Any other financial contribution from a government, a municipality or other public administration is considered a reducing amount of assistance in the calculation of the tax credit, mainly because the intent is not to grant a tax credit regarding the cost of production of a property borne by another public organization.

In this context, the investment made by a public broadcaster as a purchase of an undivided share in the ownership of a film production would also be considered a reducing amount for the purposes of the tax credit for Québec film and television production.

Such a financial contribution was not a covered investment when the change was made to fiscal policy in 2003. The amounts chiefly targeted were amounts in the nature of a grant, a sponsorship (purchase of corporate visibility), an advance or conditionally repayable loan, or an acquisition of non-commercial rights.

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20 In the specific case of a series, it is the filming work of all the episodes of the series.

21 This amendment was confirmed in the May 24, 2007 Budget Speech.

Consequently, the tax legislation will be amended to stipulate that a financial contribution paid by a public broadcaster will not reduce the amount labour expenditures or production expenses, as the case may be, in the calculation of the tax credit to which a taxpayer is entitled regarding a Québec film or television production, regardless of its form (acquisition of rights, license or on any other account).

This amendment will apply regarding an amount received or receivable after March 11, 2003.

2.2 Restoration of the tax holiday for manufacturing SMEs in remote resource regions

The March 29, 2001 Budget Speech introduced a ten-year tax holiday for small and medium-sized manufacturing enterprises (SMEs) in remote resource regions to stimulate economic development in these regions, where the employment situation is the most difficult.

As part of the June 12, 2003 Budget Speech, this tax holiday was reduced by 25%, like many other fiscal measures, in the interests of restoring order to public finances and ensuring adequate funding for the public services the state must deliver.

In general, since June 12, 2003, a corporation all of whose activities consist mainly in carrying on a manufacturing or processing business in one of Québec's remote resource regions can claim, until December 31, 2010, a 75% tax holiday in relation to such business, with respect to income tax, the tax on capital and the employer contribution to the Health Services Fund (HSF).

More specifically, a corporation benefits fully from the 75% tax holiday for a taxation year where its paid-up capital applicable for such year, calculated on a consolidated basis, does not exceed $20 million. However, the tax holiday is partially granted, for a taxation year, where the paid-up capital applicable for such year, calculated on a consolidated basis, is between $20 million and $30 million.

It was announced in the February 20, 2007 Budget Speech that the tax legislation would be amended to gradually reduce the tax holiday granted to manufacturing SMEs in remote resource regions regarding calendar years 2008, 2009 and 2010.[22] The purpose of this reduction was essentially to encourage healthy competition among the various regions of Québec.

Because it affects all corporations eligible for the tax holiday, it has been pointed out that the reduction of tax assistance could jeopardize the economic development that this measure is designed to help sustain.

22 This amendment was confirmed in the May 24, 2007 Budget Speech.

Moreover, the government has been made aware that the tax holiday can have negative impacts on the other regions of Québec, by encouraging companies established in these other regions to move to remote resource regions.

Accordingly, to reconcile the objective of the tax holiday and the need to limit the impacts arising from companies moving to the remote resource regions, two amendments will be made to the ten-year tax holiday for manufacturing SMEs in the remote resource regions.

2.2.1 Maintenance of the level of assistance granted to manufacturing SMEs in remote resource regions

The gradual reduction of the tax holiday granted to manufacturing SMEs in remote resource regions announced on February 20, 2007 will be withdrawn. Accordingly, subject to the impact of the changes described below, the level of assistance granted to corporations eligible for the tax holiday will be maintained until December 31, 2010.

Tax holiday granted
(Percent)

	Current	2008	2009	2010
Rate stipulated in the February 20, 2007 Budget Speech[1]	75	50	25	25
Revised rate	75	75	75	75

(1) The change to the rate was to take effect on January 1 of each year.

2.2.2 Changes to the eligibility conditions and introduction of a reduction factor

The eligibility conditions for the tax holiday will be changed to stipulate the obligation, for an eligible corporation, to obtain an annual eligibility certificate from Investissement Québec, which will determine, if need be, the reduction factor of the tax assistance applicable to the corporation and attributable to the move of a business or part of a business to the remote resource regions.

❑ Review of eligibility conditions

In general, a corporation all of whose activities consist mainly in carrying on a manufacturing or processing business in a remote resource region may claim a 75% tax holiday with respect to income tax, the tax on capital and the employer contribution to the HSF. In this regard, all the activities of a corporation consist mainly in carrying on a manufacturing or processing business where more than 50% of its payroll[23] or more than 50% of its assets are attributable to manufacturing or to processing.

To be eligible for the tax holiday, a corporation must only have establishments, within the meaning of the *Taxation Act*, in remote resource regions. However, a corporation that has an establishment outside such a region is deemed to satisfy this criterion if all or almost all its payroll, for a taxation year, is attributable to employees who work in its establishments located in remote resource regions.

Lastly, a corporation benefits fully from the tax holiday for a taxation year (at the 75% rate) where its paid-up capital applicable for taxation such year, calculated on a consolidated basis, does not exceed $20 million, and from a partial tax holiday if such paid-up capital is between $20 million and $30 million. No tax holiday is granted where the paid-up capital applicable to a taxation year, calculated on a consolidated basis, is $30 million or more.

❑ Transfer of activities

Unlike the other fiscal measures intended for the resource regions,[24] the current terms and conditions of the tax holiday have no special rules in cases of business reorganization or business continuation.[25]

Accordingly, following a winding-up or a merger, the parent corporation or the new corporation can claim the tax holiday, subject to the conditions otherwise applicable, even if the activities of the subsidiary or of the replaced corporation were previously carried out outside a remote resource region. Similarly, a corporation that carries on a business whose activities were previously carried out by another person or a partnership can claim the tax holiday, even if such activities were carried out outside a remote resource region.

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23 To determine whether the payroll attributable to carrying on a manufacturing or processing business represents more than 50% of a corporation's total payroll, only the first $125 000 of wages incurred regarding an employee, on annual basis, are considered, both to calculate the payroll attributable to carrying on the manufacturing or processing business and to calculate the corporation's total payroll.

24 The refundable tax credit for the Vallée de l'aluminium, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for processing activities in the resource regions.

25 To avoid burdening the text unduly, the expression "transfer of activities" means either the continuation of a business, which also covers a part of a business, and the transfer of activities, including in the course of outsourcing contracts, or a business reorganization.

The lack of special rules in the case of a transfer of activities is attributable, in particular, to the fact that the limit on consolidated paid-up capital and the requirement concerning the maintenance of establishments in remote resource regions themselves restrict the acquisition of businesses and instead encourage transactions involving a business established in a remote resource region.

However, to further encourage healthy competition among the various regions of Québec and to ensure that a corporation cannot claim a tax holiday attributable to a transfer of activities where such activities had previously been carried out in Québec but outside the remote resource regions, an annual certification mechanism will be introduced for the purposes of the tax holiday for manufacturing SMEs in remote resource regions.

■ Annual eligibility certificate

To benefit from the tax holiday (at the 75% rate), a corporation must henceforth obtain an annual eligibility certificate from Investissement Québec regarding any taxation year ending after December 31, 2007. This eligibility certificate will establish whether a transfer of activities has been made from an establishment located outside the remote resource regions to an establishment located in one of these regions and, if yes, it will also establish the reduction factor for the tax assistance applicable to such corporation and attributable to such transfer of activities to the remote resource regions.

Since a corporation's activities are generally carried out by its employees, particularly in the case of a manufacturing or processing business, employee payroll will be the chief criterion taken into consideration by Investissement Québec to determine both whether a transfer of activities has been made to an establishment located in a remote resource region and the reduction factor applicable to the eligible corporation regarding a taxation year, as the case may be.

Accordingly, where a corporation is able to demonstrate, to Investissement Québec's satisfaction, that no part of its payroll for a given taxation year is attributable to a transfer of activities made after the day of publication of this information bulletin, Investissement Québec will then issue an eligibility certificate to the corporation confirming that no reduction factor must be applied for such taxation year.

Where a transfer of activities is made after the day of publication of this information bulletin, an eligibility certificate confirming that no reduction factor is applicable regarding a taxation year may also be issued by Investissement Québec if it is shown that all the activities thus transferred were previously carried out either in an establishment located outside Québec, or in an establishment located in a remote resource region.

- **Reduction Factor**

Where a transfer of activities is made after the day of publication of this information bulletin and part of the transferred activities was previously carried out in an establishment located in Québec but outside a remote resource region, Investissement Québec will issue an eligibility certificate confirming the reduction factor for the tax holiday applicable to the corporation for a given taxation year.

This reduction factor will be set in relation to the payroll attributable to employees assigned to the activities transferred to an establishment in the remote resource region and the total payroll of such corporation for such given taxation year.[26] In this regard, only the first $125 000 of wages incurred regarding an employee, on an annual basis, will be considered, both to calculate the payroll attributable to the employees assigned to the activities transferred to an establishment in the remote resource region and to calculate the total payroll of the corporation.

For example, a corporation otherwise eligible for the tax holiday acquires, on July 1, 2007, a business carried on outside a remote resource region. To satisfy the requirement relating to the maintenance of establishments in remote resource regions, the corporation transfers, on August 1, 2007, all the activities in its establishment located in a remote resource region. The corporation's fiscal year ends March 31. The payroll attributable to the employees assigned to the transferred activities, for the period from July 1, 2007 to March 31, 2008, is $500 000 and the total payroll of the corporation for its taxation year is $1 250 000.

Accordingly, the reduction factor for the tax holiday applicable to the corporation in such a case would be 40% for its taxation year ending March 31, 2008. This factor, determined by Investissement Québec, will be shown on the eligibility certificate issued to the eligible corporation for this taxation year.

Investissement Québec may, in the course of setting or revising the reduction factor determined for a corporation, for a given taxation year, consult with the ministère du Revenu to ensure uniform treatment of transfers of activities. Such consultation will help adequately reflect a decision reached and applied by the ministère du Revenu in this regard for the purposes of the other fiscal measures intended for the resource regions.

Investissement Québec may consider that a transfer of activities made after the day of publication of this information bulletin was made no later than that day where such transfer is no more than the finalization of a transfer that already bound the parties on such date and that, according to Investissement Québec, was sufficiently advanced no later than the day of publication of this information bulletin. In such a case, Investissement Québec will issue a certificate confirming that no reduction factor is applicable regarding such transfer, provided it is completed no later than December 31, 2007.

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26 For greater clarity, a transfer of activities made after the day of publication of this information bulletin will also be considered in the calculation of a reduction factor even if it was made in a year prior to the one when the corporation is eligible for the tax holiday.

■ **Other details**

In order to benefit from the tax holiday, for a taxation year, an eligible corporation must enclose with its tax return, for such taxation year, a copy of the eligibility certificate issued by Investissement Québec.

Where a reduction factor is determined for an eligible corporation regarding a given taxation year, the tax holiday will then be reduced by such factor. For greater clarity, this reduction factor will apply in addition to the other parameters currently stipulated.

For example, an eligible corporation whose eligibility certificate issued regarding a taxation year indicates a reduction factor of 40%, may claim a tax holiday equal to 45% of its income from an eligible business, of the amount of its paid-up capital and the wages paid or deemed paid by the corporation.[27]

Similarly, in the case where the paid-up capital of the corporation, applicable for a given taxation year, is greater than $20 million but less than $30 million, the income from such eligible business, the paid-up capital and the wages paid or deemed for which a deduction can be claimed will continue to be reduced linearly.

This change will apply regarding a taxation year ending after December 31, 2007. However, where the taxation year of the eligible corporation includes that day, the change will apply in proportion to the number of days of such taxation year that follow that day and the number of days of such taxation year, to establish a weighted rate of the tax holiday.

To illustrate, using the figures of the preceding example where Investissement Québec indicates a reduction factor of 40%, thus reducing the percentage of the tax holiday to 45% as of January 1, 2008, this weighted average would be 67.54% if the corporation's taxation year ends on March 31, 2008.[28]

Lastly, an eligible corporation must adjust its instalment payments, according to the usual rules, to reflect the effects of this change.

27 I.e., 75% X (1 - 0.40) = 45%.

28 I.e., (75% X (275/366)) + (45% X (91/366)) = 67.54%.

2.3 Tax treatment of flow-through entities

On October 31, 2006, the Minister of Finance of Canada announced a *Tax Fairness Plan* designed to standardize the tax treatment of flow-through entities and corporations, which encompass income trusts and Canadian partnerships listed on a stock exchange, with a view to restoring fairness to Canada's tax system.[29] In addition, on December 15, 2006, the Minister of Finance of Canada provided additional clarifications concerning the notion of "normal growth" that will apply as part of the tax measures regarding flow-through entities.[30] Lastly, on March 27, 2007, the federal Minister of Finance tabled, in the House of Commons, a Notice of Ways and Means Motion including, among other things, measures relating to flow-through entities.[31]

Briefly, the tax regime that applies henceforth to flow-through entities, other than real estate investment trusts, is comparable with that of corporations, and investors in such entities are considered as shareholders.

Accordingly, in accordance with the new federal rules, an income trust cannot deduct, in calculating its income, non-portfolio earnings it distributes to investors, while a partnership will itself be taxed in their regard. In addition, a tax is payable by a flow-through entity regarding its non-portfolio earnings at the rate applicable to corporations. In addition to this tax there is also a non-Québec provincial tax, to be collected by the federal government and redistributed to the provinces according to an allocation method to be negotiated with them.

On the other hand, investors who are not tax-exempt are taxed as though the amounts they receive are dividends, giving rise to the application of the dividend tax credit for individuals and to a deduction in calculating their taxable income for corporations, as well as to the application of federal Part XIII tax payable regarding a dividend if it is paid to a non-resident.

However, some differences are maintained between the tax treatment of flow-through entities and that of corporations. Accordingly, the existing tax system remains unchanged regarding the tax rate that applies to income, including non-portfolio earnings, retained by an income trust.

These new rules apply as of taxation year 2007 for flow-through entities whose units are publicly traded for the first time after October 2006. In the case of flow-through entities existing prior to that date, the changes will apply as of taxation year 2011.

29 Department of Finance Canada News Release 2006-061.

30 Department of Finance Canada News Release 2006-082.

31 Department of Finance Canada News Release 2007-026.

The ministère des Finances du Québec has already announced that Québec's tax legislation will be harmonized with the federal tax legislation concerning the new rules relating to the tax treatment of flow-through entities, but that a separate Québec tax system would be introduced.[32] More specifically, the ministère des Finances du Québec has specified that a flow-through entity with an establishment in Québec at any time of a taxation year would be subject to this new Québec tax for the year.

This information bulletin describes the other application details specific to Québec, namely the tax rate and the business allocation formula that will apply regarding flow-through entities subject to Québec tax.

❑ Tax rate

In general, the Québec tax rate relating to corporations is currently 9.9% but will rise to 11.4% in 2008 and to 11.9% as of 2009. However, on June 1, 2007,[33] the Minister of Finance announced a rise in the tax rate applicable as of that date for oil refining corporations and financial institutions. Accordingly, such corporations are now subject to an 11.9% tax rate applicable to all their income.

The principle underlying the changes made to the tax system of flow-through entities is based on achieving tax neutrality with corporations. To do so, the federal tax rate used regarding non-portfolio earnings distributed to unit-holders is the federal tax rate applied to corporations.

Consequently, like the situation that prevails in the case of corporations, the tax rates that will apply to non-portfolio earnings distributed to unit-holders by flow-through entities subject to Québec tax will differ depending on whether the entity would qualify or not, were it a corporation, as an oil refining corporation or a financial institution according to the criteria set out in Information Bulletin 2007-3. Accordingly, the rates will be determined by the parameters indicated in the following table.

Tax rates applicable to flow-through entities
(Percent)

Flow-through entities	As of January 1, 2007	As of June 1, 2007	As of January 1, 2008	As of January 1, 2009
Oil refining and financial institutions[1]	9.9	11.9	11.9	11.9
Other	9.9	9.9	11.4	11.9

(1) For greater clarity, the tax rates stipulated for these flow-through entities apply to all the income otherwise covered by the tax on flow-through entities.

32 Information Bulletin 2006-6.

33 Information Bulletin 2007-3.

Where the taxation year of a flow-through entity includes periods straddling the rate change dates, the tax rate that effectively applies for such taxation year will be a weighted rate reflecting the number of days of the taxation year included in each period.

For greater clarity, the instalment payments of a flow-through entity, for a taxation year that includes periods straddling the rate change dates, must be calculated using the weighted rate applicable to such taxation year.

In the particular case of instalment payments of a flow-through entity whose taxation year straddles the day of this information bulletin, they must be adjusted, according to the usual rules, as of the first instalment following this day, to take into consideration the effects of the new tax rates.

❑ Business allocation formula

Québec's administration of the new tax relating to flow-through entities involves the implementation of a formula for allocating business among the provinces.

Now that the tax status of flow-through entities has been brought closer to that of corporations, a business allocation method similar to the one applied to corporations can be used.

Consequently, a business allocation formula based on the gross income of a flow-through entity and the wages and salaries it pays, similar to the one used for the purposes of determining the tax payable by a corporation that has activities in Québec and outside Québec, will apply to determine the tax payable to Québec by a flow-through entity that has an establishment, in a taxation year, both in Québec and outside Québec.

For greater clarity, only the general business allocation formula will apply to flow-through entities, regardless of the category of activities they carry out. To illustrate, the specific rules relating to banks will not apply to a flow-through entity even if it were to qualify, were it a corporation, as a financial institution.

❑ Application date

Like the measures relating to flow-through entities that will be incorporated in Québec's tax legislation and regulations, these specific measures will be adopted only after the assent of any federal statute or the adoption of any federal regulations arising from these measures, allowing for the changes that may be made to them before such assent or adoption. In addition, these specific measures will be applicable on the same dates as they will for federal tax purposes.

2.4 Streamlining of the special tax relating to flow-through shares

The tax legislation contains specific provisions concerning public financing in the resource sector. An investor is allowed a tax deduction for a taxation year, generally a calendar year, because of the waiver by a development corporation of certain expenses relating to resources that it incurred during such calendar year or will incur no later than during the following calendar year (subsequent calendar year).

However, where a corporation has waived an amount regarding resource expenses to be incurred in Québec (Québec exploration expenses) no later than during the subsequent calendar year, a special tax is payable by it regarding the expenses that were not incurred during such subsequent calendar year. This tax consists of two components, namely the monthly tax and the compensatory tax.

Accordingly, the corporation must pay fees for each month of the subsequent calendar year, as of February, that are calculated as a percentage of the portion of the funds from the issue of flow-through shares not allocated to Québec exploration expenses at the end of the month in question. These fees are applied to compensate the government for the shortfall it incurs by authorizing a deduction before the corresponding expenditure is incurred (monthly tax).

In addition, where the corporation does not allocate all the funds from the issue of flow-through shares to Québec exploration expenses at the end of the subsequent calendar year, it must pay fees equal to 20% of half the unspent balance on that date (compensatory tax). These fees reflect the fact that establishing new assessments will involve costs for the government. In this case, the waiver made by a corporation in favour of an investor must be adjusted and the tax deduction the latter claims reduced accordingly, resulting in an increase in his tax payable.

This special tax, that has applied since 1997, was introduced in Québec in a context of harmonizing the Québec flow-through share system with the corresponding federal system. However, the federal compensatory tax was then set at 10%. Moreover, the special tax applies regardless of the reasons for the late execution of the exploration work.

To allow for certain special situations and to better reflect the situation surrounding the administration, by the ministère du Revenu, of the special tax relating to flow-through shares, the rate of Québec's compensatory tax will be lowered from 20% to 10% and the Minister of Revenue will be given discretion to allow additional time, in certain circumstances, before a corporation is subject to the compensatory tax.

❑ Rate of the compensatory tax

Briefly, in Québec, the special federal tax is calculated on the total of two items:

— the amounts a corporation waived regarding Canadian exploration expenses other than Québec exploration expenses and that have not been incurred; and

— half the amounts a corporation waived regarding Québec exploration expenses and that have not been incurred.

Similarly, the special Québec tax is calculated based on half the amounts a corporation waived regarding Québec exploration expenses and that have not been incurred.

However, the rate of the federal compensatory tax is 10%, while the rate of the Québec compensatory tax is 20%.

To better reflect the costs relating to the administration of the special tax by the ministère du Revenu and to restore balance among Canadian corporations, the rate of Québec's compensatory tax will be lowered from 20% to 10%.

For greater clarity, the compensatory tax base will still consist of half the unspent balance of Québec exploration expenses that a corporation has waived.

This change will apply regarding a compensatory tax initially payable by a corporation as of calendar year 2006, without taking into account the discretion granted by this information bulletin to the Minister of Revenue allowing him to defer the corporation's liability for such tax.

❑ Discretion granted to the Minister of Revenue

The compensatory tax applies to a corporation that, by the end of the subsequent calendar year, has not incurred all the Québec exploration expenses it waived for the benefit of investors.

In addition, where the expenses that a corporation waived are not completely incurred within the same time, the deductions claimed by the investors, for the taxation year preceding such calendar year, are denied for such taxation year and new assessments in this sense must then be issued by the ministère du Revenu.

It can happen that such delays are due to factors that are legitimate and unavoidable for the corporation. Accordingly, for example, such a situation would not be unusual in the case of wind-power projects because of the additional levels of government approvals or authorizations needed to install the turbines.

Accordingly, to recognize certain special situations, a discretionary power taking into consideration the context surrounding the incurring of Québec exploration expenses for the purposes of the flow-through share system will be granted to the Minister of Revenue. Where, in his view, the delay in incurring such expenses by a corporation is due to circumstances independent of the corporation's will, the Minister may:

— allow additional time for the corporation to incur the Québec exploration expenses it waived, such additional time extending over the complete calendar year following the one for which the compensatory tax would have been paid initially;

— stay, for the same period, the corporation's liability for the compensatory tax and the establishment of new assessments for the investors;

— require the corporation to pay the monthly tax for each month of such additional year, including January, until the full amount of the Québec exploration expenses is incurred or the additional year expires before the full amount of such expenses is incurred, as the case may be;

— where all the Québec exploration expenses are effectively incurred by the end of such additional year, not establish new assessments for investors; and

— where all the Québec exploration expenses are not effectively incurred by the end of such additional year, require that the corporation pay the compensatory tax and issue new assessments for investors.

The monthly tax and, as the case may be, the compensatory tax that will be due at the end of the additional year must be paid before March 1 of the calendar year following such year.

This change will apply regarding a compensatory tax initially payable by a corporation as of calendar year 2006, without taking into account the discretion granted by this information bulletin to the Minister of Revenue allowing him to defer the corporation's liability for such tax.

2.5 Scientific research and experimental development

2.5.1 Recognition of an eligible public research centre

A taxpayer may obtain a refundable tax credit for university scientific research and experimental development (R&D) of 35% in relation to R&D activities where such activities are carried out by an eligible public research centre, under a contract the taxpayer concludes with such centre.

In this regard, it is the responsibility of the ministère des Finances to recognize a research centre as an eligible public research centre.

More specifically, to be recognized as an eligible public research centre for the purposes of the tax credit for university R&D, a research centre must demonstrate its capacity, in terms of human, material and financial resources, to carry out R&D work on behalf of businesses. Accordingly, the employees must have the qualifications needed to carry out the R&D work sub-contracted to the research centre, and the research centre must have premises and equipment that enable it to carry out such work in its field of expertise.

In addition, the research centre must obtain most of its financing from public funds.

Moreover, all research centres recognized by the ministère des Finances as eligible public research centres, for the purposes of the tax credit for university R&D, must annually confirm with the ministère des Finances that they satisfy the eligibility criteria set out above. This annual return relates to a calendar year and must be filed no later than the last day of February following such calendar year.

Lastly, an eligible public research centre must advise the ministère des Finances as soon as a change occurs, regarding human, material or financial resources, that could compromise its capacity to carry out R&D work on behalf of businesses or to satisfy the requirement relating to the source of its financing.

A new research centre will be recognized for the purposes of the tax credit for university R&D, namely the Centre d'aide régional sur les aliments du Saguenay-Lac-Saint-Jean-Côte-Nord (CARA).

This recognition will apply regarding R&D carried out after December 31, 2006, under an eligible research contract concluded after such date.

2.5.2 End of recognition of three eligible research consortiums

Generally, a taxpayer that is a member of an eligible research consortium can claim a refundable tax credit corresponding to 35% of the portion of the contribution or dues it pays to such consortium, and that is reasonably attributable to the R&D done in Québec by the research consortium.[34]

In this regard, the Feric, Forintek and Paprican consortiums, that worked in the forestry realm, were recognized as eligible research consortiums for the purposes of the refundable tax credits for R&D.

More specifically, Forintek and Paprican were recognized by the ministère des Finances in the May 14, 1992 Budget Speech, when the refundable tax credit for dues and fees paid to an eligible research consortium was introduced.

34 A taxpayer that is a member of a partnership, which itself is a member of an eligible research consortium, can also receive this tax credit.

Apart from these two consortiums, any other consortium must obtain an eligibility certificate from the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE) certifying that it is an eligible research consortium. Accordingly, the MDEIE recognized Feric as an eligible research consortium.

In March 2007, the Feric, Forintek and Paprican consortiums merged to form a new entity called FP Innovations. The activities of this new consortium began on April 1, 2007 and the MDEIE issued a new eligibility certificate recognizing FP Innovations as an eligible research consortium for the purposes of the refundable tax credits for R&D. This receipt became effective on April 1, 2007.

Accordingly, the recognition of the Feric, Forintek and Paprican consortiums as eligible research consortiums ended because of their merger into a new entity. In this context, the recognition of the Forintek and Paprican consortiums as eligible research consortiums is revoked. This revocation is effective as of April 1, 2007. Moreover, the MDEIE will also revoke the recognition of the Feric consortium as an eligible research consortium as of April 1, 2007.

3. MEASURES CONCERNING CONSUMPTION TAXES

3.1 Input tax refund regarding hybrid vehicles acquired by large businesses

The Québec sales tax (QST) system stipulates a rebate of the first $2 000 of this tax paid on the purchase or long-term lease, before January 1, 2009, of a prescribed new hybrid vehicle, i.e. a vehicle that the Minister of Revenue is convinced consumes no more than 6 litres of fuel per 100 kilometres, highway or city, ("hybrid rebate").

However, this rebate may not be claimed by a person registered in the QST system or by a person entitled to a rebate of the QST paid on such sale or such long-term lease under other provisions of this system.

Accordingly, since a large business is a person registered in the QST system, it cannot claim the hybrid rebate. Moreover, neither may such a business obtain the input tax refund (ITR) in this regard. The vehicles covered by the hybrid rebate measure also constitute road vehicles of less than 3 000 kilograms that must be registered under the *Highway Safety Code* to circulate on public roads. A restriction on obtaining an ITR applies in relation to such vehicles acquired by large businesses.

In these circumstances, it appears appropriate for the government to make a gesture to recognize the acquisitions of hybrid vehicles by large businesses, particularly since such acquisitions, often highly publicized, can contribute to the popularity of hybrid vehicles and encourage other taxpayers to follow suit.

Consequently, the restriction on obtaining an ITR by large businesses regarding certain road vehicles will be lifted as far as the vehicles covered by the hybrid rebate measure are concerned.

This measure will apply regarding to a new hybrid vehicle that has been purchased or for wich a long-term lease has been taken out after the day of publication of this information bulletin and before January 1, 2009.

3.2 Department of Finance Canada News Release 2006-073

On November 27, 2006, the Minister of Finance of Canada issued, in a news release, a notice of ways and means motion proposing in particular amendments to the *Excise Tax Act* aimed at increasing the fairness and efficiency of the goods and services tax (GST) and the harmonized sales tax (HST) system.

In Information Bulletin 2006-6 released on December 20, 2006, the ministère des Finances du Québec announced that it would study two of the federal measures proposed in the notice of ways and means motion and that the decisions on this matter would be announced at a later date.

This involved the measure authorizing the Minister of National Revenue to exchange GST/HST information with foreign governments that are signatories to the Convention on Mutual Administrative Assistance in Tax Matters, as well as the measure granting a discretionary power to the Chief Statistician of Canada and authorizing him to provide the provinces with statistical information concerning business activities.

The analysis of these measures has shown that they do not correspond to the features of the QST system, and accordingly that system will not be harmonized with the GST system in this regard.